



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 10, 1997

Mr. James R. Raup
McGinnis, Lochridge & Kilgore, L.L.P.
1300 Capitol Center
919 Congress Avenue
Austin, Texas 78701

OR97-0311

Dear Mr. Raup:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 103731.

The Austin Independent School District (the "school district") received a request for various documents which involve an investigation of the sexual harassment or abuse of students by other students. However the school district seeks to withhold portions of the requested information based on sections 552.101, 552.108 and 552.114 of the Government Code. You enclose representative samples of the information, including a case management file of the school district police, which the school district seeks to withhold.¹

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.


(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

You state that the school district police are presently in the process of investigating the allegations of abuse. We observe that school district police departments are created by school district board of trustees pursuant to their authority to commission peace officers. *See* Educ. Code § 37.081(a). The school district police are commissioned peace officers and may enforce all laws. *See id.* § 37.081(b). Under the Family Code section 261.103 a report involving allegations of abuse or neglect of a child shall be made to any local or state law enforcement agency as it was in this instance to the school district police. The information gathered pursuant to this incident is subject to the Family Code provisions as set forth in section 261.201(a). The requested information consists of "reports, records, communications, and working papers" used or developed in investigations made under chapter 261 of the Family Code. Because you have not cited any specific rule that the district has adopted with regard to the release of this type of information, we assume that no such regulation exists. Given that assumption, the requested records are confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 (1986) at 2 (predecessor statute). Accordingly, the district must withhold these records.²

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

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²As we resolve the issues regarding the instant records under section 552.101 we do not address the issues you present under sections 552.114 and 552.108.

Ref.: ID# 103731

Enclosures: Submitted documents

cc: Mr. Bobby Johnson
TSTA/NEA Regional Field Manager
42 East Avenue
Austin, Texas 78701
(w/o enclosures)